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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,811	11/21/2003	Patrick Hoscin	4740-252	3314
24112	7590	10/03/2007		
COATS & BENNETT, PLLC 1400 Crescent Green, Suite 300 Cary, NC 27518			EXAMINER DOAN, KIET M	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 10/03/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/719,811

Applicant(s)

HOSEIN, PATRICK

Examiner

Kiet Doan

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attachment.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

**JOSEPH FELO**  
**SUPERVISORY PATENT EXAMINER**

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 08/20/2007 have been fully considered but they are not persuasive.

In response to applicant's argument and point out on page 2 of the remarks such as "The target transmit power  $P_t(n)$  is base on a desired target load at the RBS 36 and represents the transmit power that should be maintained by each mobile station 100 transmitting on the reverse link channel...broadcasts a quantized load indication to mobile station 100 transmitting on the reverse link channel. The load indications, denoted  $b(n)$ ...The RBS 36 additionally updates its estimate of the target transmit power  $P_t(n)$ ...the base station reduced the target transmit power  $P_t(n)$ ...the RBS 36 increase the target transmit power  $P_t(n)$ ."

Examiner completely agrees with the detail explains and if such details languages writing in independent claims it would help to overcome the prior art. However, the rejection is base on broad claim languages that **Black (US 6, 397,070 B1)** teaches

estimating a reverse link load (Title);

determining a desired target transmit power based on the estimated reverse link load; and  
transmitting the target transmit power to at least one mobile station (Abstract, C5, L8-56, C7, L43-55, C8, L36-67, C9, L1-56, Fig.1 Illustrate base station 10 communication with plurality mobile station wherein the reverse link signals 16

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transmitting from mobile station 12 to base station No.10 and further the office point to control processor to calculate an estimate of the reverse link load and control command the power base on the estimated reverse link load).

Further, Examiner bring in **Soliman (US 5, 859, 838)** teaches transmitting a periodic load indication indicative of the reverse link load on a common control channel to one or more mobile stations (Abstract, C6, L51-67, C7, L1-50 teach Base station 112 is periodic communication with load device 102 which comprise an ordinary power controlled mobile station 104).

Therefore, examiner rejection is base on claims languages such as

“estimating a reverse link load;

determining a desired target transmit power based on the estimated reverse link load; and

transmitting the target transmit power to at least one mobile station;

transmitting a periodic load indication indicative of the reverse link load on a common control channel to one or more mobile stations as broadest reasonable interpretation and it is proper.

In response to applicant's request that the examiner provide a meaningful statement of claims 19 and recited in claim 34 in the rejection “determining a rate change probability as a function of a current transmit power of mobile station.

(C5, L56-67, C6, L1-25 teach base station transmitting signal indicated to the mobile station that reverse link has reach loading limit, in response to the signal, the mobile station adjust the transmission of the reverse link in the form of data

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rate reduction or in the power transmission signal. That's is, which means as determining a rate change probability as a function of a current transmit power of mobile station).

Further, examiner bring in **Attar et al. (US 2004/0202136 A1)** teaches selectively changing the data transmission rate of the mobile station based on the rate change probability (Abstract, Paragraphs [0029], [0034-0035] teach the access terminal update the data rate and selects).

Therefore, examiner interpreted "determining a rate change probability as a function of a current transmit power of mobile station; and

selectively changing the data transmission rate of the mobile station based on the rate change probability" as broadest reasonable interpretation and it is proper.

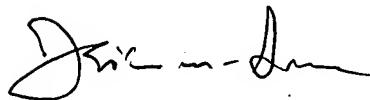
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiet Doan whose telephone number is 571-272-7863. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Kiet Doan', with a stylized flourish at the end.

Kiet Doan  
Patent Examiner